

The Hon. James L. Robart

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,  
Plaintiff,  
v.  
KRISTOPHER NEIL,  
Defendant.

No. CR16-289-JLR

[PROPOSED]  
**PRELIMINARY ORDER  
OF FORFEITURE**

Mr

THIS MATTER comes before the Court on the United States' Motion for Entry of a Preliminary Order of Forfeiture ("Motion") seeking to forfeit, to the United States, Defendant Kristopher Neil's ("the Defendant's") interest in the following property:

1. One Toshiba External Hard Drive, bearing serial number 24FZS8C15TT1; and,
  2. Any and all images of child pornography, in whatever form and however stored.

The Court, having reviewed the papers and pleadings filed in this matter, including the United States' Motion, hereby FINDS entry of a Preliminary Order of Forfeiture is appropriate because:

- 1     • The above-listed property is forfeitable pursuant to 18 U.S.C. § 2253, as
- 2         property used to commit or to promote commission of the offense of
- 3         Possession of Visual Depictions of Minors Engaged in Sexually Explicit
- 4         Conduct and/or prohibited images; and,
- 5     • In the stipulation he entered on March 1, 2017, the Defendant agreed to forfeit
- 6         the above-listed property pursuant to 18 U.S.C. § 2253 (Dkt. No. 27).

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8           NOW, THEREFORE, THE COURT ORDERS:

9     1) Pursuant to his stipulation and 18 U.S.C. § 2253, the Defendant's interest in

10    the above-listed property is fully and finally forfeited, in its entirety, to the United States;

11    2) Pursuant to Fed. R. Crim. P. 32.2(b)(4)(A)-(B), this Preliminary Order will

12    be final as to the Defendant at the time he is sentenced; it will be made part of the

13    sentence; and, it will be included in the judgment;

14    3) The United States Department of Homeland Security, Homeland Security

15    Investigations ("HSI"), and/or its authorized agents or representatives, shall maintain

16    item 1 (the hard drive) in its custody and control until further order of this Court. In

17    accord with 21 U.S.C. §§ 853(i) and 881(e), HSI shall destroy item 2 (any images of

18    child pornography) unless they have been destroyed already or will be retained for

19    official, investigative use;

20    4) Pursuant to Fed. R. Crim. P. 32.2(b)(6) and 21 U.S.C. § 853(n), the

21    United States shall publish notice of this Preliminary Order and the United States' intent

22    to dispose of the above-listed hard drive (item 1) as permitted by governing law. The

23    notice shall be posted on an official government website – currently [www.forfeiture.gov](http://www.forfeiture.gov)

24    – for at least thirty (30) days. For any person known to have alleged an interest in the

25    above-listed hard drive, the United States shall, to the extent possible, also provide direct

26    written notice to that person. The notice shall state that any person, other than Defendant,

27    who has or claims a legal interest in the above-listed hard drive must file a petition with

28    the Court within 60 days of the first day of publication of the notice (which is 30 days

1 from the last day of publication), or within 30 days of receipt of direct written notice,  
2 whichever is earlier. The notice shall advise all interested persons that the petition:

- 3       a. shall be for a hearing to adjudicate the validity of the petitioner's alleged  
4           interest in such property;
- 5       b. shall be signed by the petitioner under penalty of perjury; and,
- 6       c. shall set forth the nature and extent of the petitioner's right, title or interest  
7           in the forfeited property, as well as any facts supporting the petitioner's  
8           claim and the specific relief sought.

9       5) If no third-party petition is filed within the allowable time period, the  
10      United States shall have clear title to the above-listed hard drive (item 1), and this  
11      Preliminary Order shall become the Final Order of Forfeiture as provided by Fed. R.  
12      Crim. P. 32.2(c)(2);

13       6) If a third-party petition is filed, upon a showing that discovery is necessary to  
14      resolve factual issues it presents, discovery may be conducted in accord with the Federal  
15      Rules of Civil Procedure before any hearing on the petition is held. Following  
16      adjudication of any third-party petitions, the Court will enter a Final Order of Forfeiture,  
17      pursuant to Fed. R. Crim. P. 32.2(c)(2) and 21 U.S.C. § 853(n), reflecting that  
18      adjudication; and,

19       7) The Court will retain jurisdiction for the purpose of enforcing this  
20      Preliminary Order, adjudicating any third-party petitions, entering a Final Order of  
21      Forfeiture, and amending the Preliminary Order or Final Order as necessary pursuant to  
22      Fed. R. Crim. P. 32.2(e).

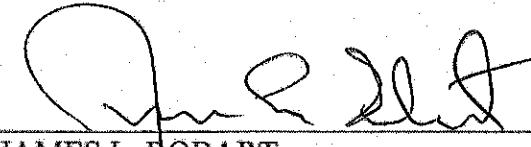
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1 DATED this 20 day of March, 2017.  
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11 JAMES L. ROBART  
12 UNITED STATES DISTRICT JUDGE  
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16 Presented by:  
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